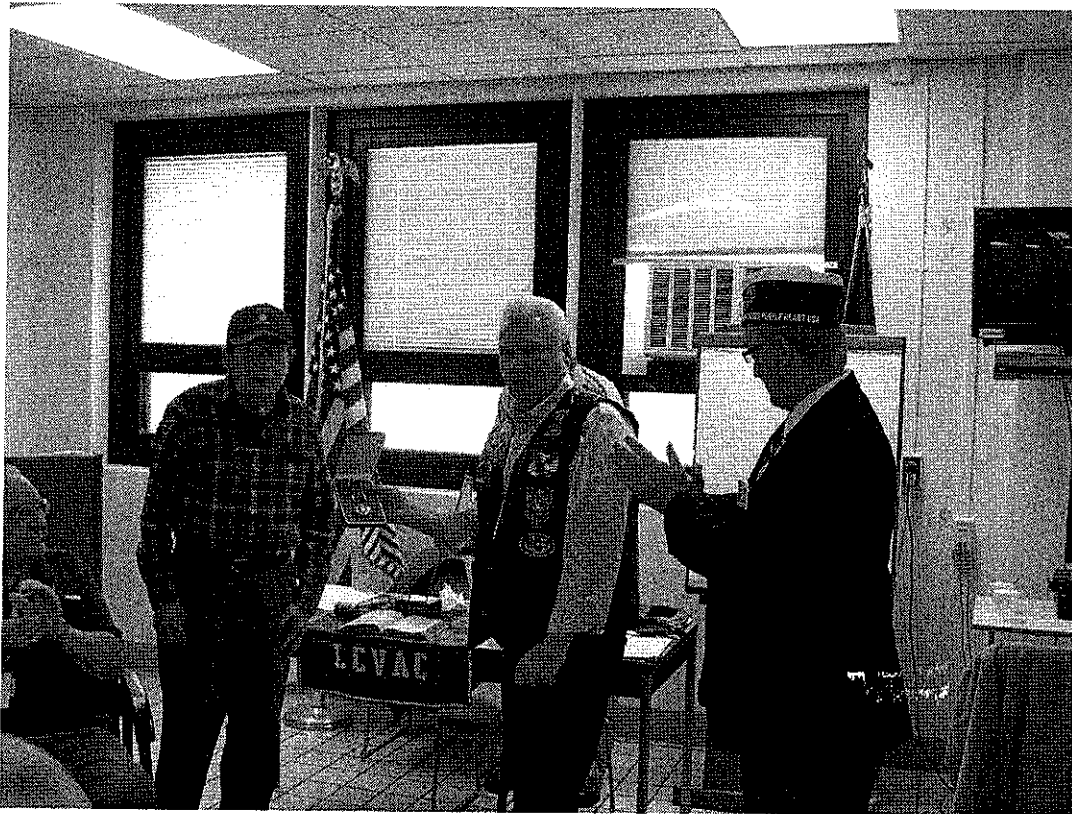


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LEFT TO RIGHT, DICK KUTZ, NORM ARNSWALD, PRESIDENT, VAC OF LAKE COUNTY, FRED HEJDUK, PURPLE HEART RECIPIENT, DAN GRANT, IDVA

Back in the fifties and sixties, young boys played war games like capture the flag. We would hide in trees, behind bushes, around corners & so on. We never thought that one day these games would become real life threatening experiences. After the first rounds of live ammo, the games were over.....

Fred Hejduk I, was in the army and fought during World War I.

Fred Hejduk III joined the Marines in 1968. After basic training, he was sent to Viet Nam. The Games were Over!

On the 28th of February, 1969, the during TET, The Chinese New Year.... At 4:15 AM, Fred Hejduk III realized that his live was in "Dire Straits". His live would never be the same. Fred was a proud member of Kilo Co. 3rd Battalion, 9th Marines. On that fateful morning, PFC Fred Hejduk III and his squad, about 15 marines, were dug in along highway 1 just north of "Hamburger Hill". This route was the Vietnamese main supply route in South Viet Nam.

Fred's squad was attacked and surrounded and about to be "over run". The marine that shared Fred's 'position' was killed. Fred used his weapon and ammo as well as his own, to hold their position. During the battle, Fred was hit eight (8) times. Three (3) rounds in the neck and five (5) rounds in the left hip. He held that position until he was taken out by medivac choppers. Seven (7) killed, four (4) wounded and four (4) survivors.

His long journey home started out at the Quang-Tri 3rd Medical Battalion. After a time, his journey moved him to the U.S.S. Sanctuary Hospital Ship... after that he finally made it to Great Lakes Naval Hospital. After 14-1/2 months of treatment and care he was released. His loving and caring wife, Celeste took over his treatment. She is still watching over his life today!

Not one time during his hospital stay did anyone mention a "Purple Heart". With the help of the Lake County Veterans Assistance Commission, he received the "Purple Heart" on January 20, 2010.....41 years later.

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Superintendents Report – February, 2010

By Michael P. Peck

My efforts this past month have centered on state legislation. One problem area has been the wasted dollars being spent for Illinois Identification Cards for Veterans. Rep. Sandy Cole is introducing legislation which allows indigent veterans a free ID card with verification on status by the County VAC. This has become a major problem for Cook County as veterans were not able to access needed service without a photo ID and the VAC was using valuable dollars to purchase a \$20 ID from the Secretary of State when the money could have been used for food and shelter.

At present we have 20 bills affecting a veteran that has been introduced into the Illinois General Assembly. Our number one target is to make the Veterans Scratch off Lottery a year round program. The lottery generates \$1.6 million but the grant request far exceeds that amount. It's hoped that a year round lottery would generate at least \$3 million. Lake County has been fortunate to receive three grants in the past totaling \$225,000 for dental and hearing aids.

In working with Senator Durbin's we have tried to appropriate funding for a statewide program for Service Officer Training that would benefit all county VAC's and IDVA Service Officers. We have also asked about the Peer to Peer Program that the VA requires of its volunteers and gain a grant to conduct the program at North Chicago VAMC.

We are still working with Mr. Patrick Hull and Natalie Dunn on a possible move of our office to Building 1 at North Chicago VA. If the move is made the VAC will be able to assist in the veterans clothing room program. The room is named after Tommy Rizzo, Past Illinois Department Commander of the American Legion.

At present, the VAC continues to experience heavy volume of request for claims assistance. Our dental program has become the envy of the state. Last year we aided 116 veterans and spent \$96,000 on dental care. With the new dental grant from the Healthcare Foundation we expect to exceed last years total. Our partnership with CAP has improved the lives of hundred of Lake County Veterans.

We have finished plans for our 2010 Service Officer Seminar and Stand Down. Recently we assisted a veteran with a stair lift that could not be furnished by VA as their rules prohibited a stair lift in a common area due to liability. In conjunction with the Wheeling Am Vets we did a grant match and the stair lift was ordered.

Our staff recently completed training on the Freedom of Information Act and the Open Meetings Act. We have training scheduled on the Virtual Veteran Software Program and that with the upgrades to our VA Remote will improve the tracking of claims.

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Tricare Regional Contracts Update 05:

Millions of Tricare beneficiaries who were facing changes in support contractors on 1 APR will not have changes at all this year. The Government Accountability Office (GAO) has upheld claims that the winning bids, worth \$38 billion over five years, were unfair, which delays any changes in contractor until at least 1 MAR 2011. This means that no beneficiary will need to change phone numbers or Web sites to make appointments. The GAO found several points to uphold and further investigate the claims, the largest of which was concern that Aetna Government Health Plans, which won the bid against current north regional contractor Health Net, used proprietary information to form its bid, provided by a former chief of staff at Tricare Management Activity (TMA), who still had access to private information and sensitive documents. Humana, which currently serves the south region of Tricare, also won its protest of a \$21 billion contract awarded to UnitedHealth Military & Veterans Services, claiming that the contracting officer did not correctly weigh the value of fee discounts Humana was offering via its care providers. Both Humana and TriWest Healthcare Alliance, whose bid was not disputed, have had their contracts extended to March 31, 2011, as well. [Source: NGAUS Leg Up 29 Jan 2010 ++]

NARA Data Breach:

Personal information for 250,000 Clinton administration staff and White House visitors sent to the National Archives was compromised after a computer hard drive containing confidential material disappeared nearly a year ago, RollCall.com reported Wednesday. The National Archives and Record Administration (NARA) sent letters to former White House staff members and visitors during the Clinton era, informing them of the data breach and warning that highly sensitive information, like Social Security numbers, has been put in jeopardy, according to the newspaper. "NARA is attempting to inform all individuals whose personally identifiable information was contained on the missing hard drive," acting archivist Adrienne Thomas reportedly wrote in the letter. The hard drive was part of a storage collection containing contents of computers of former Clinton administration employees, including one of former Vice President Al Gore's daughters, whose Social Security number was on the drive. The hard drive was reported missing in March 2009, according to the newspaper. [Source: FOXNews.com 27 Jan 2010 ++]

Cold War Experiments Lawsuit Update 01:

Morrison & Foerster has won the right to proceed with a case against the CIA, the Department of Defense, and the U.S. Army, filed on behalf of veterans rights organizations Vietnam Veterans of America and Swords to Plowshares, along with six veterans with multiple diseases and ailments, tied to a secret testing program in which U.S. military personnel were deliberately exposed to chemical and biological weapons and other toxins without informed consent. Plaintiffs seek declaratory and injunctive relief that would free them from their secrecy oaths and grant them healthcare that they were promised. On 19 JAN 2010, Judge Claudia Wilken of the U.S. District Court, Northern District of California, issued an order that overruled the government's main arguments to dismiss the case, which were based upon lack

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of jurisdiction, failure to state a claim for relief, statute of limitations, sovereign immunity, and standing. "The victory obtained for us by our attorneys at Morrison & Foerster finally gives us a chance to redress one of the unfortunate decisions that has made veterans second class citizens," said Paul Cox, Board of Directors Member at Swords to Plowshares.

The court also dismissed a direct challenge to the Feres doctrine, which is an exception to the waiver of sovereign immunity that was created by the Supreme Court during the Cold War. According to Rick Weidman, Executive Director for Policy and Government Affairs at Vietnam Veterans of America, "the government became immune to damages suits by military veterans after Feres so the use of soldiers became cheaper than using guinea pigs." The human experimentation program launched in the early 1950s and continued through at least 1976 when it was suspended in response to hearings conducted by Congress. Thousands of experiments took place at the Edgewood Arsenal and Fort Detrick, as well as several universities and hospitals across America contracted by the Defendants. "Volunteers" were exposed to thousands of toxins under code names such as MKULTRA, including drugs such as LSD, mescaline, and cannabis; biological substances such as plague and anthrax; and noxious gases such as sarin, tabun, and nerve gases. "The government has long reconciled its war prosecutions and reliance on international treaties with secret actions on its part. As the case moves forward, perhaps we will finally learn an answer to why our vets were made victims at Edgewood," said Michael Blecker, Executive Director at Swords to Plowshares.

Morrison & Foerster Senior Counsel Gordon Erspamer is the lead attorney representing the veterans, along with partner Timothy Blakely and associates Stacey Sprenkel, Adriano Hrvatin, Tim Reed, and Jonathan McFarland. The case came on the heels of an earlier case the firm filed on behalf of veterans afflicted with Post-Traumatic Distress Disorder, which is now pending in the Ninth Circuit Court of Appeals. The firm is handling both cases pro bono. The trial should be held either this summer or this fall in San Francisco, hopefully it will be given class action to that it will represent the entire 7120 veterans, their widows and their children, who have been deprived the veterans benefits the victims of these immoral and ill thought out hazards to human health. One of the litigants stated: The government has stated that this will never happen again, somehow I don't trust them. The term "national security" has been used to hide many nasty things done in this nations name. Rendition, torture, up to and including abusing its own military personnel as this case shows. Then they use every means possible to deny it ever happened, they lie about it, they lie about the men who talk about it, they lie to us, they lie to Congress, they lie to Generals in charge, they lie to any and all involved in investigating them. I have been told I was NOT used in any "secret test programs" no I never claimed I was, I plainly stated I was used in a known classified project at Edgewood Arsenal, nothing more and nothing less. I have the files to prove I was there, can I prove what I was exposed to, no, I have had Congressman tell me that they have been informed by the Army that I was never there, I was not exposed to anything, I was sent home sick in JUL 74, despite Army records that prove I was at Edgewood Arsenal from 25 JUN thru 22 AUG 74. What took place during that 59 day period is classified, but it did happen.

The law firm's position is that after decades of ignoring these veterans and their families, it is finally time for this nation to accept their responsibility for these men and women. We just went to war against Saddam Hussein for using WMDs primarily Sarin and Mustard agents against the Kurds, what did these 7120 soldiers do to the government of the US to deserve being used and abused by them? Justice demands that this nation give these men and women medical care and if appropriate compensation for their medical conditions caused by the "classified experiments" 35-55 years ago. It is time to honor these

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volunteers for the danger they placed themselves in to enable the development of chemical, biological safety equipment to protect today's soldiers. They did not even give these men the promised Army Commendation or Soldiers medals they were promised, let alone the promotions we were promised. Maybe a federal court can make the military keep it's "honor" since they decided to use and abuse and then ignore these men and women due to the true costs of doing the "right thing" decades ago. [Source: Morrison & Foerster Press release 20 Jan 2010 ++]

BrainPort Vision Project:

For those who are blind, the non-surgical BrainPort vision device is an investigational assistive device for orientation, mobility, object identification, and spot reading. It enables perception of visual information using the tongue and camera system as a paired substitute for the eye. Visual information is collected from a video camera and translated into gentle electrical stimulation patterns on the surface of the tongue. Users describe it as pictures drawn on their tongue with champagne bubbles. With training, users may perceive shape, size, location, and motion of objects in their environment. The BrainPort vision device is intended to augment rather than replace other assistive technology such as the white cane or guide dog. The BrainPort device was demonstrated by Cpl. Mike Jernigan, a medically retired Marine who lost both eyes after being wounded by a roadside bomb in Iraq in 2004, during the McGowan Institute for Regenerative Medicine First Open Meeting. The device could be approved by the U.S. Food and Drug Administration for market by the end of 2009 at a cost of about \$10,000 per machine.

Dr. Amy Nau, an optometrist and director of the University of Pittsburgh Medical Center's Eye Center Contact Lens and Low Vision Services, is conducting a nationwide search for blind veterans of all ages to participate in a research study on BrainPort. Once study participants have been trained on the device, they will return home where they will be asked to use the BrainPort daily and document their experiences and findings. If you are a veteran of the U.S. military and are legally blind, you may qualify to participate in the University of Pittsburgh Medical Center's BrainPort study. For more information, contact the medical center at (412) 647-2481, or e-mail Gail Engleka at gle1@pitt.edu, or visit the McGowan Institute for Regenerative Medicine website <http://www.mirm.pitt.edu/news/article.asp?qEmpID=476>. [Source: Military.com Benefits artic;le 4 Jan 2010 ++]

GI Bill Update 66:

In a coordinated effort to speed up the processing of Post 9/11 GI Bill education benefits this spring, the Department of Veterans Affairs (VA) announced 20 JAN that it has been reaching out to student Veterans, servicemembers, university officials and other partners to meet its commitment to an aggressive processing goal by 1 FEB 2010. That is the first date spring payments are due and presently VA has processed over 72,000 of the approximately 103,000 spring enrollments received. Since inception of the historic new program last year, VA has paid over \$1.3 billion in benefits to more than 170,000 students. "Only by VA and all of our partners working together will students be better served," said VA's Acting Under Secretary for Benefits Mike Walcott. "We are making a concerted effort to reach out to everyone

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to provide the timely benefits that those who served our nation deserve." Walcoff said there are "shared responsibilities" between VA, universities and the students to ensure the success of processing the education benefits on time." To date:

VA has sent letters to university presidents and school certifying officials, state Veterans affairs directors, and notified Veteran service organizations, congressional members and other education stakeholders highlighting VA's emphasis on the importance of timely submission of school enrollment information. VA also released a "Hip Pocket" guide and checklist, with helpful tips to assist Veterans in the application process. The guide and checklist can be found on college campuses and VA's GI Bill Web site, www.gibill.va.gov.

VA is working to provide timely payments to all eligible Veterans to ensure that students are spared the financial hardships which some faced during the fall 2009 term.

To help address the high volume of claims received for the new Post-9/11 GI Bill, VA hired 530 employees, bringing the total number of education claims processors to 1,200. Employees have been working mandatory overtime since AUG 09. Additionally, the department awarded a temporary contract to assist with education claims processing.

Veterans, servicemembers, reservists, and members of the National Guard who served on active duty since September 11, 2001 are potentially eligible for the new Post-9/11 GI Bill. It provides payments for tuition and fees, as well as a housing allowance and stipend for books and supplies for many participants. Under the new GI Bill, some members of the armed forces may transfer benefits to a spouse or dependent children. Information about the Post-9/11 GI Bill, as well as VA's other educational benefit programs, is available at VA's Web site, www.gibill.va.gov, or by calling 1(888) 442-4551. [Source: VA News Release 20 Jan 2010 ++]

GI Bill Update 67:

Roger Baker, chief information officer at VA, testifying 21 JAN before the House Veterans' Affairs Subcommittee on Economic Opportunity informed them of some slippage in deployment of the GI bill claims system. The Veterans Affairs Department is on track to unveil in late March the first version of a system to automate processing of educational benefit claims under the post-9/11 GI Bill, but its software capabilities will be more limited than originally planned. The first release of the rules-based software, which the Space and Naval Warfare Systems Center Atlantic is developing in four stages -- will allow officials to manage simple claims, but not more complex ones. For example, the initial version will not be able to respond to situations in which veterans add or drop classes. The projected deployment schedule is:

First release will be deployed to a limited number of claims examiners in March so they can gain real-world experience with the system while SPAWAR continues to develop additional rules to handle more complicated claims, according to Baker. Despite the more limited first release, VA expects to meet its original goal of having the system fully launched by DEC 2010. SPAWAR will have developed all the functionality originally intended for the first stage by JUN 2010.

Second release in June will allow VA to move claims examiners off of an interim, semiautomated system launched in 2009.

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Third version of the software -- which remains on target for a September release -- will tie the claims processing technology to VA financial systems for payments to veterans, and the final step will provide a Web interface so veterans can manage their claims.

The learning system was one of the 45 IT projects that Veterans Affairs' CIO Roger Baker suspended in 2009. Mark Krause, SPAWAR program manager for Veterans Affairs, said without the iterative development approach, VA could have faced a two-year delay in launching the system. "This is a good news story," he said. VA failed to quickly process post-9/11 GI Bill claims for the fall 2009 semester, requiring the authorization of emergency payments of up to \$3,000 per veteran at the end of SEP 09. Keith Wilson, director of the Office of Education Service at the Veterans Benefits Administration, told lawmakers he does not expect any such problems in payments for veterans enrolled in college for the spring 2010 semester. As of last week, VA had received 115,000 claims for that semester, and it will have all those processed for payment by 1 FEB, according to Wilson. [Source: NEXTGOV eNewsletter Bob Brewin article 22 Jan 2010 ++]

GI Bill Update 68:

The Department of Veterans Affairs is beginning the process of recovering advance payments made available during the fall 2009 semester to Veterans and servicemembers who applied for education benefits. "The advance payments were a huge success and helped thousands of student Veterans during the first days of the historic Post-9/11 GI Bill focus on studies and not their finances," said Keith Wilson, Director of Education Services at VA. "Now, we can get to the business of closing the books on advance payments and focus on supporting Veterans for the spring semester." VA will begin sending out notification letters this week explaining the repayment process. In October VA instituted an advanced payment process for all eligible students who were currently enrolled in an institution of higher learning for the fall 2009 term to ensure that all Veterans and eligible students were able to focus on their academic studies and not be burdened with financial concerns. As part of that process, a web portal was established to allow electronic submission for advance payment. Advance payments were also made on-site at VA offices around the country. At that time student Veterans were told that advance payments would be deducted from future benefit payments.

In collaboration with the Department of Defense, VA will also notify active duty service members who may have mistakenly applied for the advance payment of their options for returning un-cashed checks or reimbursing deposited funds. VA discontinued advance payments via the website portal following the conclusion of the fall 2009 semester. VA is currently processing approximately 7,000 education benefits daily, up from an average of 2,000 at the beginning of the fall 2009 term. As of 22 JAN the Department has processed more than 105,000 of the approximately 132,000 spring enrollments received. Since the inception of the historic new program last year, VA has paid out more than \$1.3 billion in education benefits, and opened the door to higher education to more than 183,000 Veteran students. [Source: VA News Release 23 Jan 2010 ++]

GI Bill Update 69:

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If you have had trouble getting your question about GI Bill benefits answered when you call the Veterans Affairs Department's education benefits call center, you are not alone. VA officials acknowledged almost 90% of calls to the Muskogee, Okla., center never connected between October and December. They either got a busy signal or a message that the call could not be completed. For those who did get through, about 30% of the calls were terminated before their question was answered, either because the caller hung up or was disconnected. Some of the missed calls were from the same person trying again and again to get through, according to VA sources. They base that possibility on statistics showing that there were 1.1 million attempted calls in December but only about 145,000 calls that ended up connecting with people at the call center. High call volume — about 3.5 million attempted calls from October to December — is largely to blame for the missed calls, but a troubled phone system and staffing decisions also were factors. VA spokeswoman Katie Roberts said a decision to close the call center on Thursdays and Fridays to divert employees to process claims is part of the reason for missed calls. That move came after officials decided that processing a backlog of claims was the highest priority, she said.

The call center remains closed two days a week while VA focuses on processing claims for the spring term, hoping to avoid a repeat of benefits delays that plagued the Post-9/11 GI Bill in its first semester. However, officials hope that blocked and lost calls will decrease simply because the total volume of calls is expected to be less as students and schools become more experienced with the new benefit, and because VA will improve its performance in quickly processing benefits and reducing questions about the status of claims. "We anticipate fewer calls coming into the education call center because fewer veterans will have questions about their claims," Roberts said. "With fewer claims, we will be able to put education call center employees presently being used to process education claims back on the phones during Thursday and Friday." VA is making progress on processing claims, she said. Last fall, the VA was able to process about 2,000 claims a day. That is up to 7,000 claims a day now, she said. Problems with the call center were raised 21 JAN by Rep. Stephanie Herseth Sandlin, D-S.D., chairwoman of the House Veterans' Affairs Committee's economy opportunity panel, who urged VA officials to do something about the problem.

Rep. Herseth Sandlin, whose panel has jurisdiction over the GI Bill, questioned the closure of the call center for two days each week. "While we understand the value of using call center staff to process education claims, VA can have the call center open five days per week by dispersing the same work hours throughout the week," she said. Another issue is the telephone system itself, she said. When congressional staffers visited the call center, they were told equipment problems "create dropped calls and require constant maintenance," Herseth Sandlin said. In a statement, Iraq and Afghanistan Veterans of America said they expect better from VA. "It is ridiculous that veterans aren't able to get the answers they need," the statement says. "IAVA continues to receive countless phone calls and emails from our members every week detailing problems accessing VA's GI Bill hotline...". VA has not made any secret of the reduced hours for the call center hours, which is open M-W 07-1500 CST, VA officials said. People with questions also can try to send an electronic query online. The site accesses a database of answers to frequently asked questions and also allows specific questions to be asked. Limited hours on the days when the call center is open have drawn complaints from students in different time zones, especially on the West Coast. Rep. John Boozman of Arkansas, ranking Republican on the economic opportunity panel, said the hours also prevent students living outside the U.S. from having a reasonable opportunity to get help. He suggested that VA impose a staggered work schedule so the call center is open for more hours. [Source: NavyTimes Rick Maze article 24 Jan 2010 ++]

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VA Blue Water Claims Update 10:

The VA Compensation and Pension (C&P) Service has initiated a program to collect data on Vietnam naval operations for the purpose of providing regional offices with information to assist with development in Haas related disability claims based on herbicide exposure from Navy Veterans. To date, they have received verification from various sources showing that a number of offshore "blue water" naval vessels conducted operations on the inland "brown water" rivers and delta areas of Vietnam. They have also identified certain vessel types that operated primarily or exclusively on the inland waterways. The ships and dates of inland waterway service are listed below. If a Veteran's service aboard one of these ships can be confirmed through military records during the time frames specified, then exposure to herbicide agents can be presumed without further development:

All vessels of Inshore Fire Support [IFS] Division 93 during their entire Vietnam tour

USS Carronade (IFS 1)

USS Clarion River (LSMR 409) [Landing Ship, Medium, Rocket]

USS Francis River (LSMR 525)

USS White River (LSMR 536)

All vessels with the designation LST [Landing Ship, Tank] during their entire tour [WWII ships converted to transport supplies on rivers and serve as barracks for brown water Mobile Riverine Forces]

All vessels with the designation LCVP [Landing Craft, Vehicle, Personnel] during their entire tour

All vessels with the designation PCF [Patrol Craft, Fast] during their entire tour [Also called Swift Boats, operating for enemy interdiction on close coastal waters]

All vessels with the designation PBR [Patrol Boat, River] during their entire tour [Also called River Patrol Boats as part of the Mobile Riverine Forces operating on inland waterways and featured in the Vietnam film "Apocalypse Now"]

USS Ingersoll (DD-652) [Destroyer] [Operated on Saigon River, OCT 24-25, 1965]

USS Mansfield (DD-728) [Destroyer] [Operated on Saigon River AUG 8-19, 1967 and DEC 21-24, 1968]

USS Richard E. Kraus (DD-849) [Destroyer] [Operated on coastal inlet north of Da Nang, JUN 2-5, 1966, protecting Marines holding a bridge]

USS Basilone (DD-824) [Destroyer] [Operated on Saigon River, MAY 24-25, 1966]

USS Hamner (DD-718) [Destroyer] [Operated on Song Lon Tao and Long Song Tao Rivers, AUG 15-SEP 1, 1966]

USS Conway (DD-507) [Destroyer] [Operated on Saigon River, early AUG 1966]

USS Fiske (DD-842) [Destroyer] [Operated on Mekong River, JUN 16-21, 1966]

USS Black (DD-666) [Destroyer] [Operated on Saigon River, JUL 13-19, 1966]

USS Providence (CLG-6) [Cruiser, Light, Guided Missile] [Operated on Saigon River 3 days during JAN 1964]

USS Mahan (DLG-11) [Guided Missile Frigate] [Operated on Saigon River OCT 24-28, 1964]

USS Okanogan (APA-220) [Attack Transport] [Operated on Saigon River JUL 22-23, 29-30, 1968 and AUG 5-6, 1968]

USS Niagara Falls (AFS-3) [Combat Stores Ship] [Unloaded supplies on Saigon River and Cam Rahn Bay, APR 22-25, 1968]. Also, Cam Ranh Bay is a qualifying location for "inland waterway" service.

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If you served on any of those vessels during the times specified, you will be granted, without further development and delay, a presumptive exposure to herbicides for the purpose of health care and monetary compensation. Note: This list is not complete. If you served on a ship that entered the inland waterways of Vietnam, please contact navy@bluewaternavy.org with as much detail as possible so they can provide this information to the DVA for processing and inclusion in their data base[Source: Compensation & Pension Service Bulletin Jan 2010 Policy 211 ++]

VA Claim Error Rate Update 02:

A new report from the Veterans Affairs Department inspector general will help fuel complaints about an error-filled disability claims process in need of a complete overhaul. Investigators looking at claims processing at the VA regional office in Roanoke, Va., found that 25% of the case files they closely studied had serious mistakes. Some veterans were denied benefits they deserved, and disability compensation was given to others who were not eligible. Many errors involved Vietnam veterans with disability claims related to exposure to the defoliant Agent Orange. In one case, a veteran was underpaid \$21,857 because the claims staff did not properly consider a physician's opinion that coronary artery disease was a complication of service-connected diabetes. In another, a veteran was overpaid \$15,640 for a diabetes-related amputation below the knee that he said was related to exposure to Agent Orange in Vietnam. His claims folder contained no evidence that he had served in Vietnam, the IG report says. The report, released in mid-JAN, found similar problems with claims involving traumatic brain injuries. In addition to reviewing claims, investigators looked at the work stations of claims employees to determine if they were following strict rules to protect veterans' personal information, and they also looked at mail handling procedures. Problems were discovered in both areas, the report says. Thirty percent of the desks inspected contained information that should not have been left unsecured. Investigators found six boxes of unsecured returned mail, about 4,200 pieces in all, containing personal information on veterans. In response to the report, VA officials provided refresher training on handling personal information and stepped up inspections of work stations to make sure policies are followed. More training also is being arranged for claims processors, the report says. [Source: ArmyTimes Rick Maze article 20 Jan 2010 ++]

USERRA Update 10:

Though active-duty guard members/reservists are covered by the Uniform Code of Military Justice and given active-duty benefits like basic pay, housing allowance and medical benefits, most take a 10% to 50% pay cut when mobilized. So any additional rights or protections from the federal government are helpful and often essential to reservists going on or coming off active duty. The Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 is a federal law intended to ensure that persons who serve or have served in the Armed Forces, Reserves, National Guard or other uniformed services are not penalized or discriminated against based on past, present, or future military service. It provides following basic protections for reservists:

In the Courts

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Default judgments: Court can't enter a default judgment for failure to appear at trial or respond to a lawsuit during a period of active duty.

Stay of Execution of Judgments: Court may stay execution of judgments, court actions, attachments and garnishments, unless guard members/reservist's ability to comply is not affected by service.

Stay of proceedings: Court may stay civil court proceedings during a period of active duty plus 60 days.

Other Civil Situations

Foreclosure: Guard Members/Reservists are protected against mortgage foreclosures provided certain conditions are met.

Installment Contracts: Guard Members/Reservists are protected from rescission or termination of contract for purchase of real or personal property if deposit is paid before service begins and ability to pay is "materially affected" by service.

Interest Rates: Guard Members/Reservists can petition lenders (loan, credit card, mortgage) to drop rate to 6% for period of active duty.

Life Insurance: Guard Members/Reservists are protected against lapse, termination and forfeiture for nonpayment of premiums for period of military service plus two years.

Taxes: State of residence can tax military income and personal property, but collection of taxes may be deferred for period of active duty plus six months.

Termination of Lease: (One of the most-used provisions of the Act.) Guard Members/Reservists may terminate lease for house or business if lease was entered before active duty and premises are occupied by member or dependents.

Leave

Verbal notification is sufficient for reserve training and military missions.

State missions, such as disaster relief, are not covered, though many states have similar laws of their own.

Employment

Reservists may not be denied employment because of military status.

Employers must reinstate Reservists to their jobs upon return with accrued seniority, promotions or pay raises they would have earned had they not left. For service of less than 31 days, Guard Members/Reservists must return to work at the beginning of the next regularly scheduled shift after travel home and an eight-hour rest period. For service of 31-180 days, Guard Members/Reservists must return no later than 14 days after release. For service of more than 180 days, reservists have up to 90 days to ask for their jobs back.

Employers are not required to pay Guard Members/Reservists while they are gone, but Reservists may use vacation leave.

Employers are required to keep health insurance available. For less than 31 days' service, insurance must stay in place. For more than 30 days, it may be continued, but reservists may have to pay up to 102% of the premium. Guard Members/Reservists not electing to continue coverage may resume it immediately upon return, with no waiting period or exclusions for pre-existing conditions.

Guard Members/Reservists have protection against job termination for a minimum of six months.

Training

Employers must train or retrain returning Reservists.

Employers must accommodate those returning with disabilities due to service.

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Employer/Reservist Disputes

National Committee for Employer Support of the Guard and Reserve (ESGR), supported by the Defense Department, mediates disputes between reservists and employers. Some 4,500 volunteers making up 55 committees are available, and, according to the committee, able to mediate a solution in about 90% of the cases they handle.

Veterans Employment and Training Service (VETS), part of the Department of Labor, handles cases that cannot be resolved by ESGR. It employs 120 investigators who have the authority to issue subpoenas, and if necessary, refer cases for consideration of representation. Service members are encouraged to contact ESGR first with employment-related issues.

Soldiers' & Sailors' Civil Relief Act, in addition to USERRA, also protects military members of the military. The Soldier's and Sailors' Civil Relief Act was created in 1940 to postpone or suspend certain civil obligations with which military service could interfere.

For more information on your rights, contact: National Committee for Employer Support of the Guard and Reserve, 1555 Wilson Blvd., Ste. 200, Arlington, VA 22209-2405 Tel: 1(800)336-4590 or Veterans Employment and Training Service, U.S. Department of Labor, 200 Constitution Ave., NW Room S-1316, Washington, DC 20210 DOL website <http://www.vfw.org/index.cfm?fa=news.magDtl&dtl=1&mid=940>. [Source: EANGUS Minuteman Update 21 Jan 2010 ++]

Vet Jobs Update 13:

On 9 NOV 09, OPM Director John Berry joined President Obama as he signed the Executive Order on the Employment of Veterans in the Federal Government, which established the Veterans Employment Initiative for the executive branch and the Council on Veterans Employment. The Executive Order underscores to Federal agencies the importance of recruiting and employing Veterans, and assisting transitioning service members seeking employment with the Federal Civil Service. The Council on Veterans Employment, consists of 24 Executive Branch agencies and is chaired by Secretary of Labor Hilda Solis and Secretary of Veterans Affairs Eric Shinseki; OPM Director Berry serves as the Vice Chair and Chief Operating Officer of the Council.

On 21 JAN, the Office of Personnel Management (OPM) announced the official launch of www.FedsHireVets.gov, a critical component of President Obama's Veterans Employment Initiative that will makes it easier to find federal employment resources. This site helps Veterans, transitioning military service members, their families, HR professionals, and hiring managers to receive accurate and consistent information regarding Veterans employment in the Executive Branch. John Berry, Director of OPM, stated "FedsHireVets.gov will be a one-stop gateway to Veterans employment resources throughout the government. Our goal is to honor Veterans service by helping them find good Federal jobs when they lay the uniform down." Information on the site will help you understand veterans' preference, how Federal jobs are filled, and unique veteran appointing authorities designed to help you find a job. The Government invests several billion dollars in the training and development of military service personnel. At the end of Fiscal Year 2008, there were approximately 480,000 Veterans working within the Federal Executive Branch. [Source: OPM News Release 21 Jan 2010 ++]

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TSP Update 26:

For the second consecutive month 9 of the 10 Thrift Savings Plan funds posted gains in December. Overall all of the funds showed growth in 2009.

The S Fund, which invests in small- and mid-size companies and tracks the Dow Jones Wilshire 4500 Index, had the largest gain in DEC after posting the biggest gains in NOV. The fund's value increased 6.57%. Since the beginning of 2009 the S Fund's value is still up 34.85%.

The I Fund, invested in overseas companies, grew 1.43% in DEC and for the year is up 30.04%.

The C Fund, which invests in common stocks of large companies on the Standard & Poor's 500 Index, grew 1.94% in DEC and is up 26.68% for the year.

The F Fund, which invests in fixed-income bonds, rose 0.25%, and is up 2.46 in 2009.

The G fund, government securities, declined 1.55% from NOV but was up 5.99% overall for 2009.

All the life-cycle funds, which are designed to move participants from riskier to safer investment balances as they near retirement, had gains in DEC and for the year.

The L 2040 Fund grew 2.12% in DEC and 25.19% for the year.

The L 2030 Fund grew 1.85% in DEC and 22.48% for the year.

The L 2020 Fund grew 1.50% in DEC and 19.14% for the year.

The L 2010 Fund grew 0.70% in DEC and 10.03% for the year.

The L Income Fund grew 0.59% in DEC and 8.57 % for the year.

[Source: My Federal Retirement 21 Jan 2010 ++]

VA Pension Update 01:

Pension is a benefit paid to wartime veterans who have limited or no income, and who are age 65 or older, or, if under 65, who are permanently and totally disabled. For eligibility countable income includes income received by the veteran and his or her dependents, if any, from most sources. It includes earnings, disability and retirement payments, interest and dividends, and net income from farming or business. There is a presumption that all of a child's income is available to or for the veteran. VA may grant an exception in hardship cases. There is no set limit on how much net worth a veteran and his dependents can have, but net worth cannot be excessive. The decision as to whether a claimant's net worth is excessive depends on the facts of each individual case. Veterans who are more seriously disabled may qualify for Aid and Attendance or Housebound benefits. These are benefits that are paid in addition to the basic pension rate.

The base rate alone is used to determine if certain Veterans are subject to co-payments for Extended Care Services. The base rate plus increases for eligible dependents and for Aid and Attendance (A&A) and Housebound Benefits (HB) is used to determine if certain Veterans are exempt from co-payments for Outpatient Medication and to establish eligibility for Beneficiary Travel. Under the provisions of 38 U.S.C. Section 5312, the VA is required to increase the benefit rates and income limitations in the pension by the same percentage and effective date as increases in the benefit amounts payable under Title II of the Social Security Act. For 2010 there was no increase. Thus, the 2010 pension base rates remain the same as they were in 2009 which are:

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Pension Only - Single veteran with no dependents \$11,830; with one dependent \$15,493; add \$2,020 for each additional dependent.

Pension Plus A&A Rate: Single Veteran with no dependents \$19,736; with one dependent \$23,396; add \$2,020 for each additional dependent.

Pension Plus HB Rate: Single Veteran with no dependents \$14,457; with one dependent \$18,120; add \$2,020 for each additional dependent.

[Source: VHA Directive 2009-072 dtd 29 Dec 09 ++]

Tricare Social Media:

Tricare is taking the plunge into social media to uncover what issues matter most to its beneficiaries around the world. Social media channels and networks like Twitter, Facebook, YouTube and Flickr continue to transform how healthcare information—and information in general—is consumed by the public. Rear Adm. Christine Hunter, deputy director of the Tricare Management Activity said, “Social media is changing the way we communicate. These powerful tools give us an opportunity to join the conversation surrounding Tricare and military health.” The ability to share healthcare information and receive feedback helps Tricare identify and address beneficiary concerns. Instead of deciding what information to share with beneficiaries, Tricare can ask for their input, identify what they want to know more about and respond accordingly. Recommendations from service members and their families have the potential to influence policy decisions and improve overall satisfaction with military healthcare. “We understand the value social media can bring to the organization, and we invite beneficiaries to talk to us about how we can improve their health care experience,” Hunter said.

Tricare is active on Twitter, Facebook, YouTube and Flickr, and is getting ready to launch a new media center Web page in MAR 2010. The media center will include Tricare news and links to Tricare’s social media channels. It will also allow beneficiaries to “share” benefit information with their friends and families online. Before launching the new media center Web page, Tricare wants to hear from the military men and women who use its benefits everyday. In the coming weeks Tricare will ask beneficiaries for feedback on the issues they want to know more about through Tricare’s Facebook, www.facebook.com/Tricare, or Twitter account at www.twitter.com/Tricare. Beneficiaries are also encouraged to visit www.tricare.mil/subscriptions to sign up for e-alerts about Tricare benefits and news. [Source: TMA Press Release No. 10-08 dtd 19 Jan 2010 ++]

PTSD Update 36:

Minnesota researchers say they may know how to diagnose post-traumatic stress disorder much more reliably — a breakthrough that could help many Iraq and Afghanistan war veterans. However, the diagnosis comes through a magnetic imaging machine that costs in the millions and only exists now in 40 or so U.S. hospitals and research facilities. A scan that detects magnetic signatures in the brain that are unique to the disorder could nonetheless give psychiatrists a more reliable measuring stick for PTSD, which forces people to re-live the emotions of traumatic events over and over. Doctors presently diagnose the disorder through interviews of patients and analysis of their symptoms. “We rely on circumstantial

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evidence or good faith or whatever," said Dr. Apostolos Georgopoulos, director of the brain sciences center at the Minneapolis VA Medical Center. "But there's no marker. There's not a test."

Researchers affiliated with the U.S. Department of Veterans Affairs and the University of Minnesota used an experimental scanner to analyze magnetic patterns in the brains of 74 people with PTSD and 250 healthy people. With 90% accuracy, the scans identified those with PTSD. The scans revealed brain functioning in PTSD patients that was separate and distinct from typical brain activity. That supports the theory that traumatic memory uses pathways in the brain separate from those of normal memory and thought. The scans also found these unique patterns of brain activity were more intense in people with the worst PTSD symptoms, which include flashbacks, recurring nightmares, anger and hypersensitivity. That raises the possibility of using imaging to evaluate the severity of the disorder, the effectiveness of treatment and the progress patients make toward recovery. For the military, which has seen rising PTSD rates among returnees from Iraq and Afghanistan, the imaging results could help determine when or if troops are fit for redeployment, the researchers said. "It is going to be fantastic when we want to look at recovery and treatment in a systematic way," said Brian Engdahl, a rehabilitation psychologist at the Minneapolis VA and a co-author of the study.

The limiting factor is the million-dollar cost of the so-called MEG scanner. (MEG stands for magnetoencephalography.) To pick up the faint magnetic signals in the brain, the scanner must work at ultra-low temperatures and be cooled with liquid helium. The VA, which funded the PTSD study, plans follow-up research with more patients as a next step toward making MEG available for clinical use. Engdahl said this study featured a variety of veterans, mostly from the Vietnam era but also from World War II and the conflicts in Iraq and Afghanistan. About half the PTSD cases emerged from combat-related trauma. Some patients who were scanned had recovered from their PTSD symptoms, yet they still showed faint levels of the unique brain activity associated with the disorder. That is consistent with existing knowledge of the disorder, Engdahl said. "You will never forget what you went through," he said. "Traumatic memory is forever." [Source: St. Paul Pioneer Press Jeremy Olson article 20 Jan 2010 ++]

PTSD Update 37:

More than 4,300 Iraq and Afghanistan war veterans who were diagnosed in service as suffering from Post-Traumatic Stress Disorder, but got low military disability ratings, have won an agreement with the Department of Defense to upgrade those ratings retroactively to 50%. The higher rating will represent an important win for this group of veterans mentally scarred by war. It will mean, from date of discharge, eligibility for disability retirement and access to Tricare, the military's triple health insurance option, for the veterans, spouses and dependent children. Any out-of-pocket medical costs since discharge also could be paid retroactively, and these soon-to-be-designated disabled "retirees" will gain access to discounted shopping and recreational services on base.

Sparkling the agreement is a class action lawsuit brought by the National Veterans Legal Services Program (NVLSP) which contends that the services illegally denied retiree status and medical benefits for years to these veterans who were diagnosed with PTSD then separated as unfit for service. Service Physical Evaluation Boards (PEBs) would ignore the disability rating schedule used by the Department of Veterans

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Affairs, which requires a minimum 50% rating for PTSD victims, and routinely separate their members with ratings as low as 10%.

A board decision that keeps ratings below 30% lowers personnel costs. Instead of immediate annuity and lifetime Tricare coverage, veterans rated below 30% get only a lump sum severance pay. Judge George W. Miller of the U.S. Court of Federal Claims agreed to stay a final ruling in the case of Sabo, et al v. United States after Department of Defense agreed to cut a deal. Seven veterans were named as original plaintiffs in Sabo but the claims court expanded the scope of the lawsuit to a class action. Defense officials gave NVLSP the names of 4300 veterans who should be invited to apply to have their ratings reviewed and upgraded, but there could be more. Misty Sabo, wife of former Army Sgt. Michael Sabo, an original plaintiff, said she was "totally excited" to learn of the agreement this week. Five of their six children are disabled with bilateral cleft lip and palate, which creates hearing, dental and speech problems and requires multiple surgeries. Family medical bills, said Misty, are enormous. Michael Sabo, 31, had served in the Army more than a decade when he was diagnosed with PTSD after two tours in Iraq where he routinely went on patrols that exposed him to multiple explosions and live enemy fire.

After Sabo's first 13-month tour in 2003-2004 he suffered recurring nightmares, severe headaches and mood swings. In the middle of his second tour, which again exposed him to explosions, mortar attacks and small arms fire, he returned home on emergency leave to care for his children while Misty underwent surgery. While home, in Fountain, Colo., near Fort Carson, Sabo nightmares, severe headaches and violent mood swings intensified and, the lawsuit contends, "severely impacted him and his family." He sought medical help and was diagnosed with PTSD and Post-Concussive Syndrome. In FEB 08, the Army separated him as unfit with a 10% disability rating and a modest lump-sum severance. Misty said she was stunned that the Army rating was only 10% for a condition that ended his career and changed his life so dramatically. Though he is able to work, every day remains a struggle due to memory loss, headaches and nightmares. Misty said a doctor at Fort Carson finally prescribed proper medication for Michael after some terrible times. At the urging of a local advocate for veterans in Fort Carson area, Sabo agreed to have his name added to the NVLSP lawsuit being prepared. By OCT 08, under pressure from Congress, Department of Defense did revise its guidance to the services on rating PTSD to adhere to the VA rating schedule.

Meanwhile, Congress ordered Department of Defense to create a special board to review any service-generated disability ratings of 20% or less brought forth by veterans who were separated as medically unfit since Sept. 11, 2001. Thousands have applied to this panel, called the Physical Disability Board of Review. So why bring a class action lawsuit specifically on behalf service members separated for PTSD? Bart Stichman, co-executive director of NVLSP, said the deal with Department of Defense forced by the court will expedite the rating review process for these PTSD cases upon application, and will guarantee those 4300-plus veterans a rating upgrade to 50% for at least six months. After that, the case will be reviewed again and the disability rating confirmed, increased or reduced. A Class Action Opt-In Notice Form is being mailed to these veterans and must be returned either by fax or postmarked before 24 JUL 10. Veterans who don't get a notice by mail but believe they might be eligible can get more information online at: www.ptsdlawsuit.com. The deal will not benefit tens of thousands of veterans diagnosed with PTSD over the last 30 years, only those discharged with a rating for PTSD of less than 50% after 17 DEC 02 and before 14 OCT 08. As the dates indicate, the deal doesn't include even all PTSD veterans discharged since Sept. 11, 2001. That's because the lawsuit was brought under the Tucker Act, which has

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a six-year statute of limitation from the date a complaint is filed against the government, which was in December 2008. [Source: Mil.com Tom Philpott article 30 Jan 2010 ++]

VA Claims Backlog Update 33:

Florida veterans are urging Congress to shorten the backlog for disability claims and to eliminate an overlap in survivors' benefits. These were among the top concerns that advocacy groups will raise at a roundtable with the House Veterans' Affairs Committee. Florida is second only to California as a home for veterans, with 1.9 million, according to the U.S. Census. The issues are:

Disability Claim Backlog - Rep. Jeff Miller (R-FL-01), a committee member, recently met with Veterans Affairs Secretary Eric Shinseki about the claim backlog that is surging with the Iraq and Afghanistan wars. "The disability-claims backlog has become a deteriorating issue for the Department of Veterans Affairs and is in need of much improvement," Miller said. The department's spending bill that Congress approved in DEC 09 included \$1.7 billion to hire 1,200 new claims processors, in an effort to reduce a backlog with nearly 397,000 claims pending, according to the Disabled American Veterans. But veterans seek more help for a system that has suffered for years. Claims grew by almost half between 2003 and 2006, when appeals averaged 657 days to resolve, according to the Governmental Accountability Office.

SBP/DIC - The perennial dispute about survivor benefits, nicknamed the "widow's tax," bridges the departments of Veterans' Affairs and Defense. Basically, the government seeks to prevent spouses from double-dipping on retirement and disability benefits, but advocacy groups contend that veterans earned and deserve both benefits. Presently survivors of deceased retirees who have made monthly payments into the survivor Benefit Plan (SBP) and died as a result of their service connected disability have to forfeit dollar for dollar the benefit received under DIC. Nationwide, 320,975 spouses, children and parents of veterans received \$4.6 billion from DIC in 2008, according to the Congressional Research Service.

Medicare Cuts - Veterans are wary of cuts in Medicare for the elderly and disabled that could ripple through the military health-care system Tricare for troops, their dependents and retirees. Because Tricare reimburses doctors the same as Medicare for services, the concern is that if Medicare payments go down, Tricare will also suffer. As payments go down, doctors could refuse to treat Medicare and Tricare patients. Even though national lobbyists note that Congress routinely reverses potential cuts in Medicare, the concern lingers.

[Source: Tallahassee.com Bart Jansen article 19 Jan 2010 ++]

VA VLER (Veterans Lifetime Electronic Record):

President Barack Obama officially announced the lifetime record program in APR 09 to develop a comprehensive digital medical record (i.e. Veterans Lifetime Electronic Record) for every military service member. The VLER will contain information from both Defense Department health services and VA health services. The program is being implemented in three phases:

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A DOD/VA interagency office has been developing interoperability between DoD and VA medical record systems since 2007. In OCT 09 VA Chief Information Officer Roger Baker said the interoperability work has been completed.

In the second phase, DOD and VA health records for about 15 million people will be made available for secure exchange with public and private organizations, including health care providers and insurers through the Nationwide Health Information Network (NHIN). The NHIN is a pilot project sponsored by the Health and Human Services Department to demonstrate national-level secure exchange of health data. The system currently is used by several federal agencies, state and local health agencies, and private providers and insurers. Baker said, "Moving the data to the NHIN is significant because it allows for exchange of medical information with private hospitals and doctors. For example, if a veteran receives treatment by a private doctor, eventually that record will be included in the lifetime record. A true lifetime virtual electronic record has to include the private sector."

The third and final phase for the system will be developing protocols to securely provide the DOD-VA patient's medical information at the point of care. For example, if a veteran who goes to a private hospital, the goal is that the hospital doctor will be able to access all, or parts of, the veteran's health record. Establishing an exchange at the point of care that can make the medical information available, while still honoring the patient's privacy and consent agreements, securing classified information, and maintaining tight security, is a highly complex problem, he said.

The VA and DOD published a sources sought notice on 12 JAN that seeks a health analyst willing to visit four to six communities to analyze how the information sharing is progressing. Responses were due by 26 JAN. The health data will be exchanged over the Health and Human Service Department's Nationwide Health Information Network. The VA and DOD began identifying communities for the project in DEC 09. One of the communities has been chosen, and four to six more will be chosen this year. Preference goes to communities with a significant share of care provided to the military and veterans, ability to demonstrate health information technology and exchange, and a high concentration of federal health programs. "The VLER Health Communities Initiative is the first necessary step for the implementation and refinement of VLER," states the notice. The communities will be evaluated on cost and quality outcomes, following a performance evaluation now under development. The evaluation plan will be provided to the contractor who will implement the plan in each community. The contractor may need to travel to one or more communities, and will need to evaluate the completeness of the data and the contribution of non-VA data, the notice said. The expected period of performance is to begin in APR 2010. The contract will have a single base year and two option years. [Source: Federal Computer Week Alice Lipowicz article 14 Jan 2010 ++]

VA VLER Update 01:

As the federal government prepares to spend up to \$27 billion in stimulus funds to promote electronic health records (EHR), a health technology industry survey suggests that a number of hospitals, health clinics, and insurance firms are violating federal security rules on patient data and putting sensitive health information at risk. The NOV 09 survey by the health technology trade association Healthcare Information and Management Systems Society (HIMSS) found that one in four of the 196 health organizations that responded do not conduct a formal risk analysis to identify security gaps in electronic patient data. The survey results were first reported last last year, but widely overlooked is that failure to

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conduct a formal risk analysis is a violation of the Health Insurance Portability and Accountability Act (HIPAA), which became law in 1996. Performing a risk analysis is crucial to assuring that patient information does not fall into the wrong hands, experts say. "This is a fundamental activity," said Lisa Gallagher, senior director of privacy and security at HIMSS. "Everything they do [to mitigate the risk of a data breach] should be based on this security assessment." In addition to poor patient data controls, the HIMSS survey highlights other privacy failures by the medical industry: inadequate data security controls, cases of medical identity theft, and insufficient budgets for information security.

The prospect of data breaches is not merely a theoretical concern. In 2009, hospitals and insurance companies were plagued by high-profile losses of sensitive patient data. In November, the insurer Health Net announced that a portable hard drive containing medical claims of as many as 1.5 million members in Arizona, Connecticut, New Jersey, and New York had been lost or stolen. In OCT 09, a laptop containing social security numbers and other personal information of patients at the Children's Hospital of Philadelphia was stolen from a car parked at a hospital employee's home. Despite the recent cases — and the survey's findings of substantial lapses — no organization has ever been punished for violations of HIPAA's data risk analysis provision, which is overseen by the Department of Health and Human Services (HHS). Since 1996, the agency has received approximately ten complaints that noted possible failure to perform risk analysis or risk management, according to Susan McAndrew, deputy director for health information privacy at HHS's Office for Civil Rights; the civil rights office took over enforcement of HIPAA data security rules last July from the Centers for Medicare and Medicaid Services. None of the cases has resulted in penalties, which potentially range from \$100 to \$50,000 for a single violation and up to \$1.5 million a year for multiple violations.

McAndrew said the agency hasn't issued any fines because the goal of enforcement is to nudge doctors, hospitals, and insurers into compliance, not to punish them. "We have not needed to evoke a penalty scheme in order to get the corrective action," McAndrew said. However, the office has so far declined to make public the names of any medical entities that have been pushed into compliance. McAndrew said the health care information society's survey shows that the Office for Civil Rights needs to provide training on data security, but does not amount to a report card on the agency. "I don't think under any measure that you can say enforcement in this office is lax in terms of HIPAA," she said. "This is a top priority." But industry insiders characterize the situation differently. They say there have been few patient data security cases at HHS because the agency relies on media reports, complaints, and referrals from other agencies to learn of potential HIPAA rules violations, which has not generated a wide number of leads or investigations. "There has been some perception that organizations have under-resourced this since they view it as not being actively enforced," said Gallagher of the health care information society. "The HIPAA police are not coming around." [Source: The Center for Public Integrity Joe Eaton article 19 Jan 2010 ++]

DFAS Retiree Pay Statement Update 01:

On 28 DEC 09, the Document Automation & Production Service (DAPS) printed Concurrent Retirement and Disability Pay annual increases information to military retirees on behalf of the Defense Finance and Accounting Service (DFAS). The statements were subsequently mailed to retirees by a DFAS vendor beginning 6 JAN 2010. During the printing of one file containing the statements, the document

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duplicating system malfunctioned. The malfunction was fixed, but upon restarting the printing run the data streams, with information for the front and back of the statement forms, were no longer synchronized correctly. As a result, approximately 18,000 recipients of the statements in the Norfolk, Virginia area received letters containing another retiree's data on Page 2 of their form. The other retiree was not fully identified on the Page 2 but the information included data such as allotment type (insurance, savings bonds, etc.) the name of the payee (bank name, insurance company name, etc.) and the amount of the allotment.

There is no indication that anyone other than the intended recipients received privacy data such as Social Security Numbers, bank account numbers or phone numbers. Recipients of the misprinted statements will be asked to destroy the erroneous statements and corrected forms will be reissued. Maintaining the privacy of customers is of the utmost importance to DAPS and DFAS who proudly serve our nation's military personnel. Both organizations regret the error and will work to ensure quality control procedures are improved and followed. Retirees that have any questions regarding their accounts should contact DFAS at 1(800) 321-1080. [Source: DFAS Press Release 0110-002 dtd 13 Jan 2010 ++]

VA Graveliner Allowance:

Public Law 104-275 was enacted on 9 OCT 96 which allows the Department of Veterans Affairs (VA) to provide a monetary allowance towards the private purchase of an outer burial receptacle to encase the casket for use in a VA national cemetery. Under VA regulation (38 CFR 38.629), the allowance is equal to the average cost of Government-furnished graveliners less any administrative costs to VA. The law provides a veteran's survivors with the option of selecting a Government-furnished graveliner for use in a VA national cemetery where such use is authorized. The average cost of Government-furnished graveliners is determined by taking VA's total cost during a fiscal year for single-depth graveliners that were procured for placement at the time of interment and dividing it by the total number of such graveliners procured by VA during that fiscal year. The calculation excludes both graveliners procured and pre-placed in gravesites as part of cemetery gravesite development projects and all double-depth graveliners. Using this method of computation, the average cost was determined to be \$264.00 for fiscal year 2009. The administrative costs incurred by VA consist of those costs that relate to processing and paying an allowance in lieu of the Government-furnished graveliner. These costs have been determined to be \$9.00 for calendar year 2010. Thus, the allowance payable for qualifying interments occurring during calendar year 2010 is \$255.00. [Source: Federal Register: 11 Jan 2010 (Volume 75, Number 6)] Notices Page 1454 ++]

Health Care Reform Update 22:

Among other similar claims, a column in the Wall Street Journal in mid-JAN by former Senate Majority Leader (and Republican Presidential nominee) Bob Dole asserted that the Senate-passed national health reform bill would tax Tricare for military families when delivered by a private-sector plan. A White House blog post at <http://www.whitehouse.gov/blog/2010/01/13/reality-check-tricare-and-our-veterans-have-nothing-worry-about-health-reform> strongly refuted this claim, asserting, "There is absolutely

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nothing in health reform that will affect Tricare beneficiaries." To clarify further, there are two types of taxes at issue in the Senate health bill.

One is an excise tax on individuals who have high-cost plans (the so-called "Cadillac tax"). The legislative language of the Senate bill specifically excludes Tricare, TFL, and VA coverage from this tax. The other tax is an insurance provider fee that would be levied on all insurance companies in America, proportional to their share of the covered population. It appears that the Dole column was talking about the latter tax.

As the WSJ column acknowledged, the proposed legislation would exempt all government entities from the tax. MOAA contacted the Senate Finance Committee staff to reconfirm their understanding of exactly how the plan would work for care delivered through Tricare's civilian contractors. They were assured (again) that the non-partisan House/Senate Joint Tax Committee has indeed issued a ruling that this tax would not apply to Tricare contractors since, under the new contracts, the contractors are not underwriting coverage, but only administering the government program. One can accept this at face value, but also recognize that no one can ever guarantee that proposed legislation won't be changed or interpreted ultimately in a different way than expected. This is why MOAA continues to ask veterans to use their Action alert at <http://capwiz.com/moaa/issues/alert/?alertid=14513626&type=CO> to urge their legislators to ensure military and VA health benefits are explicitly protected, and not subject to any taxation, in whatever health care legislation Congress may consider. To date, veterans have generated nearly 80,000 messages to Congress on this topic.

Not part of the Health Care Reform bills are two issues that will also impact Tricare users, the scheduled cuts in Medicare payment levels for Physicians and the Deficit. The present law requires yearly cuts in the Medicare payment levels for doctors however year after year those cuts have been delayed. So now we have reached the point that the present statute calls for a 21% cut. If this is put into effect, no one knows how many doctors would stop taking Medicare and Tricare all together. Certainly many doctors would likely stop accepting NEW Medicare and Tricare patients. It is, obviously of special concern to anyone with TFL because Medicare is first payer to Tricare for Life. However, it is a serious concern to everyone who is a Tricare beneficiary since Tricare payments rates are initially set by Medicare rates. While the health care reform bill is everyone's focus we should all remember that the more dramatic danger for military retirees' benefits is the huge deficit we see on the horizon. With the projected deficit everyone (especially the Department of Defense) will be looking for places to cut costs or raise fees (practically the same thing) Co-pays and deductibles, enrollment fees, etc. will all be in play. This is important to remember and to gear up to contact your members of Congress and the White House when necessary. [Source: MOAA Leg Up & TREA Washington Update 5 Jan 2010 ++]

Health Care Reform Update 23:

As House and Senate Democrats negotiate a final compromise national health care reform bill, military people across the nation -- and their advocates in Washington D.C. -- remain vigilant for side effects. The Obama administration and Democratic congressional leaders have tried to reassure military members, retirees and veterans that national health care reform won't negatively impact them -- in fact will help veterans. Democrats contend that if the Senate-passed Patient Protection and Affordable Care Act (HR 3590) becomes law, many of 16 million veterans not enrolled in VA health care "will have access to

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quality, affordable health insurance choices through [new] health insurance Exchanges...and may be eligible for premium tax credits and cost-sharing reductions as well." A two-page list of reassurances from the Senate Finance Committee can be read online at:

<http://dpc.senate.gov/healthreformbill/healthbill51.pdf>. Many military retirees and veterans don't believe it. Their skepticism is reinforced by statements from Republicans who oppose the president's health initiative, and by scary e-mails including one from a retired brigadier general who wrongly asserts that the Congressional Budget Office (CBO) already has drafted a bill to eliminate Tricare for Life. It has not.

Scott Brown, who has won the U.S. Senate seat for Massachusetts that Ted Kennedy filled until his death last year, claims Tricare is at risk. A lieutenant colonel in the National Guard, Brown hasn't explained his worry in detail but he expressed it again last in early JAN on a Fox News program. "If you hear a politician telling voters that health reform will hurt Tricare, don't believe him," said Matt Flavin, White House director of veterans and wounded warrior policy, on the White House Blog 13 JAN. "If you rely on Tricare, you have nothing to worry about." The House-passed Affordable Health Care for America Act (HR 3962) states in Section 311 that nothing in the bill "shall be construed as affecting" authority of the Defense or Veterans Affairs department to provide Tricare or VA health care. The final compromise is almost certain to include this language to protecting Tricare and veterans' health care, Capitol Hill sources said. They will be protected from any excise tax that Senate Democrats want to levy on so-called "Cadillac" health insurance. However, concerns from veteran associations include:

FRA: Behind the anxiety of many older retirees is memory of a broken promise over free health care for life, said Joe Barnes, national executive director of the Fleet Reserve Association. That, combined with the endless loop of misinformation on the internet, has deepened concerns, Barnes said.

TMC: Bob Washington, co-chair of the health care committee of The Military Coalition, an umbrella group of service associations, also points to the false report involving CBO. Many older retirees also fear for their Tricare for Life benefits from the spectacle of lawmakers each year having to block an automatic cut in Medicare doctor fees ordered by an earlier Congress. More anxiety arises because Democrats say they pay for health reform with billions of dollars in Medicare savings, something Republicans contend will put Medicare at risk though most military associations disagree.

NMFA: Joyce Raezer, executive director of the National Military Family Association, believes legitimate concerns do remain for the military community. They flow from the plans' promise to make affordable health insurance available to 31 million Americans who currently are uninsured. Health reform plans would create health insurance exchanges from which individuals and small business will buy coverage. Raezer wants to know what will happen if participating insurance companies try to entice physicians to be part of these plans by paying fees higher than Medicare allows. Tricare fees, by law, are tied to Medicare reimbursement rates. So Raezer worries that Tricare beneficiaries will see access to civilian providers tighten, particularly access to family physicians who serve as gatekeepers to specialty care. Some primary care doctors already set limits on the number of Tricare and Medicare patient they take on, she said. "What's going to happen if reimbursements don't change for Tricare? Are we're going to continue to depend on patriotic doctors to take Tricare beneficiaries when all of these other people are jostling for care?" She urges the military community needs to remain wary. "Folks hear that the legislation isn't touching Tricare, isn't involving VA, and they say, 'Okay, we're safe,' " Raezer said. "I'm relieved that members of Congress don't want to [pull] Tricare benefits into all of this [and will] let DoD run its health care program...But I don't think that's enough for us to say 'Don't worry.' We still have to watch for unintended consequences."

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Told of Raezer's concern, a Democratic aide to the Senate Finance Committee said the Senate bill does include a 10% increase in Medicare fees for primary care physicians. Also, she said, insurance exchanges won't compete for providers any differently than insurers do now. A House staff member who works with Tricare agreed. Insurers, he said, won't compete by "ratcheting up rates for doctors." Most companies already have large physician networks. The competition will occur in knocking down doctor reimbursements to keep beneficiary premiums low. "It's going to be almost a race to the bottom," he said. "These companies are going to offer the cheapest packages possible. That's how you're going to get these [31 million] people into insurance." They "aren't going to be looking at plans saying, 'This one has 220 doctors in my area but this one has 235.' No. They're going to say, 'This one is \$5 a month cheaper. I'll take it.'" Some civilian physicians do turn Medicare and Tricare patients away because of reimbursement levels, he said. But other doctors prefer Tricare because it pays most claims fast, "typically within 36 hours of when a claim is submitted versus 240 days for your average health insurance company." [Source: Military.com Tom Philpott article 14 Jan 2010 ++]

Health Care Reform Update 24:

House leaders plan to bring small-scale health care legislation to the floor before the chamber leaves for its Presidents Day recess on 11 FEB, aides to Speaker Nancy Pelosi said 28 JAN. The legislation, which may consist of more than one bill, will include proposals that can win quick majority approval. But they would not be a substitute for the broad health care overhaul, which has stalled in prolonged negotiations between top House and Senate Democrats. Pelosi (D-CA) reiterated her position that the big bill, which was sidetracked last week after Republican Scott P. Brown's victory in a Massachusetts special Senate election stripped Democrats of their 60-vote margin in the Senate, will eventually pass. "We must pass health care reform," she said. "The problem is still there . . . We can't sustain the current system." "Some things we can do on the side," Pelosi added. "But it's not a substitute for comprehensive reform." Pelosi has said she doesn't have the votes to simply pass the Senate bill and send it on to President Obama. She said that negotiations will continue to find a compromise, but she wouldn't give a timetable for reaching a deal. She also would not say whether Democrats would use the budget reconciliation process to advance the lion's share of a health care overhaul. That process bars filibusters, requiring only 51 votes to move through the Senate. But measures moved under reconciliation cannot include policy provisions unrelated to revenues and entitlement program expenditures. The simplest option for Democrats to complete the stalled health care overhaul would be for the House to send President Obama the version passed by the Senate on Christmas Eve, and then to use the reconciliation process to pass a second bill that incorporates House-Senate compromises on all issues that could be dealt with through that process. So far, House Democrats have been unwilling to pursue that course. And with no final agreement on the parameters of a compromise version of the overhaul, neither Obama nor party leaders are demanding that they do so. [Source: CQ TODAY Midday Update 28 Jan 2010 ++]

Military Stolen Valor Update 14:

A 69-year-old San Diego County man has pleaded guilty to a federal charge for posing as a decorated Marine major general. David Weber entered the plea 14 JAN to a misdemeanor charge of making false

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claims about military decorations or medals. Weber, who has prostate cancer and Parkinson's disease, is expected to be sentenced to a year of probation. Authorities say Weber had been a Marine staff sergeant but he claimed to be a retired major general last November at a Veterans of Foreign Wars party in Ramona. Prosecutors say he wore a full dress uniform with five Legion of Merit medals, two Purple Hearts and a Distinguished Service Cross. Weber, posing as the highest-ranking officer, got the first piece of cake at the party, which honored the birthday of the Corps. [Source: NavyTimes AP article 14 Jan 2010 ++]

Tricare Gray Area Retirees Update 03:

To get an update from Congress on the implementation date of Tricare for Gray Area Retirees, the National Guard Association of the United States (NGAUS) met with legislative assistants for Sen. Ben Nelson (D-NE) and Rep. Robert Latta R-OH), the two senators who led the effort to authorize the coverage in the 2010 National Defense Authorization Act (NDAA). The legislative assistants indicated that the monthly premium for Tricare coverage was still being determined by the Defense Department. They did not expect the coverage to be available until 1 OCT. Tricare Management Activity had reported last month that the coverage would not be available for another 11 to 18 months because pricing for the coverage had yet to be determined. Congress was able to include Tricare for Gray Area retiree coverage in the 2010 NDAA because it was reported as cost neutral to the government. The new law requires beneficiaries to pay the full cost for Tricare Standard coverage incurred by DoD, with the monthly premium to be equal to the cost of coverage that the defense secretary determines on "an appropriate actuarial basis." The secretary, through his staff, has been engaged for the last two months in an extended process to determine that cost of coverage.

When the bill was passed, the hope was that the price for the Tricare Standard coverage for this new group would be in the range of the full cost of Tricare Reserve Select (TRS) to the DoD. However, it appears that the pricing formula will most likely produce a cost higher than the base cost of TRS because of the older demographics of the covered group of Gray Area retirees. How much higher the monthly premium will be is unknown, but NGAUS would like to find out as soon as possible or at least monitor the process to make sure the pricing mechanism is fair. As you may recall, Congress had to correct the initial overpricing of Tricare Reserve Select premiums in 2008 after the Government Accountability Office reported a significant pricing error. Unfortunately, DoD is not making its premium pricing determination process transparent to Congress or the public. [Source: NGAUS Leg Up 15 Jan 2010 ++]

Enlistment Update 08:

The United States Military does not condone the illegal or improper use of drugs or alcohol. All applicants for enlistment are carefully screened concerning drug and alcohol involvement. As a minimum, you can expect the recruiter to ask:

- a. "Have you ever used drugs?"
- b. "Have you been charged with or convicted of a drug or drug related offense?"
- c. "Have you ever been psychologically or physically dependent upon any drug or alcohol?"

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d. "Have you ever trafficked, sold, or traded in illegal drugs for profit?"

If the answer to the last two questions is "yes," then you can expect to be ineligible for enlistment. If the answer to the first two questions is yes, then you can expect to have to complete a drug abuse screening form, detailing the specific circumstances of your drug usage. The military service will then make a determination as to whether or not your previous drug usage is a bar to service in that particular branch of the military. In most cases, a person who experimented with "non-hard" drugs in the past will be allowed to enlist. Anything more than experimentation may very well be a bar to enlistment. An "experimenter" is defined as:

.."one who has illegally, wrongfully, or improperly used any narcotic substance, marijuana, or dangerous drug, for reasons of curiosity, peer pressure, or other similar reason. The exact number of times drugs were used, is not necessarily as important as determining the category of use and the impact of the drug use on the user's lifestyle, the intent of the user, the circumstances of use, and the psychological makeup of the user. An individual whose drug experimentation/use has resulted in some form of medical, psychiatric, or psychological treatment; a conviction or adverse juvenile adjudication; or loss of employment does not fall within the limits of this category. For administrative purposes, determination of the category should be within the judgment of either the district or recruiting station commanding officer, aided by medical, legal, and moral advice, with information as available from investigative sources."

While not a "hard and fast" rule, one can expect that any admitted use of marijuana over 15 or so times, or any admitted use of "hard drugs," will be disqualifying, and require a waiver. In any case:

1. Dependency on illegal drugs is disqualifying.
2. Any history of drug use is potentially disqualifying.
3. Any history of dependency on alcohol is disqualifying.

Even if enlistment is authorized, many sensitive military jobs will be closed to individuals who have any past association with illegal drug or alcohol use. In the Air Force, anyone who admits to smoking marijuana less than 15 times does not require a waiver. More than 15 times, but less than 25 requires a Drug Eligibility Determination (basically, a trained Drug & Alcohol Specialist will examine the exact circumstances of the use). An approved Drug Eligibility Determination is not the same thing as a "waiver," in that it will not preclude enlistment in most Air Force Jobs. 25 or more uses of Marijuana in a lifetime is disqualifying, and requires a waiver. As a minimum, recruits will undergo a urinalysis test, when at the Military Entrance Processing Station, (MEPs) for their initial processing, and again when reporting for basic training. [Source: About.com: U.S. Military Rod Powers article 19 Sep 09 ++]

Tax Deduction Wisdom Update 01:

Many taxpayers take the standard deduction rather than itemizing their tax deductions, even though some taxpayers with mortgages or home equity loans could have saved money by itemizing. Consider how well you will do with itemized deductions in the following areas:

Property Tax

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For those that do not itemize the standard deduction amount is increased by \$500 (\$1,000 for married couples filing jointly) if they paid at least that much in property taxes during the year. This break allows those who do not itemize to get some tax benefit for the property taxes they pay.

Many lenders provide a year-end tax summary that includes any real estate taxes and insurance paid through escrow accounts. The real estate taxes are deductible, but homeowner's insurance and homeowner's association fees are not. If your real estate taxes aren't paid through an escrow account, review your property tax bills and cancelled checks and add up what you paid. You can't deduct any penalties you paid for late payment of property taxes; you can only deduct the actual taxes assessed and paid.

Interest/Points

If you have a mortgage or home equity loan on your home, fill out Schedule A to see if your itemized tax deductions are larger than the standard tax deduction to which you're entitled. In January, your mortgage lender should provide the amount of mortgage interest you paid during the previous year. Look for Form 1098, Mortgage Interest Statement. If you paid points as part of the financing for your home, the points will also be shown on that form. Mortgage lenders sometimes attach Form 1098 to your December or January mortgage bill.

A quick rule of thumb: Compare your mortgage interest (plus any points paid on the purchase of your residence) with your standard deduction. If you have refinanced your mortgage, points on the refinancing are deducted gradually over the life of the loan—1/30th a year on a 30-year mortgage, for example. Don't forget to add each year's share to your deductions. For more information, consult IRS Publication 936: Home Mortgage Interest Deduction.

If the interest you paid on your mortgage is larger than your standard tax deduction, you definitely benefit by itemizing -- and all the rest of your deductible expenses (including real estate taxes, state and local income taxes, and charitable donations) are frosting on the cake.

Homeowners Insurance - If you closed on a home mortgage in 2009 and had to pay Private Mortgage Insurance (PMI), the premiums you paid in 2009 can be deducted if your adjusted gross income falls below a certain level. This write-off phases out as income rises between \$100,000 and \$110,000 (except on married filing separate returns, for which the phase out zone is \$50,000 to \$55,000). If you're paying PMI on a mortgage issued before 2008, you're out of luck on this one. This deduction, which applies only to mortgages used to purchase a home (rather than refinance), is effective through December 31, 2010. [Source: Military.com Taxes Jan 2010 ++]

Veteran Legislation Status 28 JAN 2010:

For or a listing of Congressional bills of interest to the veteran community that have been introduced in the 111th Congress refer to the Bulletin's Veteran Legislation attachment. Support of these bills through cosponsorship by other legislators is critical if they are ever going to move through the legislative process for a floor vote to become law. A good indication on that likelihood is the number of cosponsors who have signed onto the bill. Any number of members may cosponsor a bill in the House or Senate. At <http://thomas.loc.gov> you can review a copy of each bill's content, determine its current status, the committee it has been assigned to, and if your legislator is a sponsor or cosponsor of it. To determine

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what bills, amendments your representative has sponsored, cosponsored, or dropped sponsorship on refer to <http://thomas.loc.gov/bss/d111/sponlst.html>.

Grassroots lobbying is perhaps the most effective way to let your Representative and Senators know your opinion. Whether you are calling into a local or Washington, D.C. office; sending a letter or e-mail; signing a petition; or making a personal visit, Members of Congress are the most receptive and open to suggestions from their constituents. The key to increasing cosponsorship on veteran related bills and subsequent passage into law is letting legislators know of veteran's feelings on issues. You can reach their Washington office via the Capital Operator direct at (866) 272-6622, (800) 828-0498, or (866) 340-9281 to express your views. Otherwise, you can locate on <http://thomas.loc.gov> your legislator's phone number, mailing address, or email/website to communicate with a message or letter of your own making. Refer to http://www.thecapitol.net/FAQ/cong_schedule.html for dates that you can access your legislators on their home turf. [Source: RAO Bulletin Attachment 28 Jan 2010 ++]
